To direct the Federal Trade Commission to prescribe rules prohibiting the marketing of firearms to minors, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. MARKEY introduced the following bill; which was read twice and referred to the Committee on ____________

A BILL

To direct the Federal Trade Commission to prescribe rules prohibiting the marketing of firearms to minors, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Protecting Kids from Gun Marketing Act”.

SEC. 2. PROHIBITION OF MARKETING FIREARMS TO MINORS.

(a) CONDUCT PROHIBITED.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Commission
shall, in accordance with section 553 of title 5, United States Code, promulgate rules to prohibit any manufacturer, dealer, or importer, or agent thereof, from marketing or advertising a firearm or any firearm-related product to a minor in a manner that is designed, intended, or reasonably appears to be attractive to a minor.

(2) CONSIDERATIONS.—In determining whether any marketing or advertising reasonably appears to be attractive to a minor for purposes of paragraph (1), the Commission shall consider the totality of the circumstances, including whether such marketing or advertising does any of the following:

(A) Uses any cartoon character, any caricature, or any meme that reasonably appears to be a minor, or intended to appeal to minors, to promote any firearm or firearm-related product.

(B) Offers to minors any brand name merchandise of a manufacturer, dealer, or importer (including any hat, t-shirt, other clothing, toy, game, or stuffed animal) that promotes a firearm or firearm-related product.

(C) Offers any firearm or firearm-related product with features, sizes, or designs that are
specifically designed to be used by, or appeal to, minors.

(D) Uses any image or depiction of a minor to depict the use or handling of a firearm or firearm-related product.

(E) Is intended to reach an audience that is predominately composed of minors and not intended for a more general audience composed of adults.

(F) Offers any firearm or firearm-related product as a gift to a minor in order to promote or advertise any firearm or firearm-related product of a manufacturer, dealer, or importer.

(G) Promotes the contracts of the manufacturer, dealer, or importer with the Federal Government or United States Armed Forces to imply an affiliation or endorsement of the manufacturer, dealer, or importer’s firearms or firearm-related products.

(b) Enforcement.—

(1) Enforcement by the Commission.—

(A) Unfair or Deceptive Acts or Practices.—A violation of a rule promulgated under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive

(B) POWERS OF THE COMMISSION.—

(i) IN GENERAL.—The Commission shall enforce the rules promulgated under subsection (a) in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.

(ii) PRIVILEGES AND IMMUNITIES.—Any person who violates a rule promulgated under subsection (a) shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(iii) AUTHORITY PRESERVED.—Nothing in this section shall be construed to limit the authority of the Commission under any other provision of law.
(iv) RULEMAKING.—The Commission shall promulgate, in accordance with section 553 of title 5, United States Code, such rules as may be necessary to carry out this section.

(2) ENFORCEMENT BY STATE ATTORNEYS GENERAL.—

(A) IN GENERAL.—

(i) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in an act or practice that violates a rule promulgated under subsection (a), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a Federal court of appropriate jurisdiction to—

(I) enjoin that act or practice;

(II) enforce compliance with such rule;

(III) on behalf of residents of the State, obtain damages, restitution, or other compensation; or
(IV) obtain such other legal or equitable relief as the court may consider to be appropriate.

(ii) Notice.—

(I) In general.—Before filing an action under clause (i), the attorney general of the State involved shall provide to the Commission—

(aa) written notice of that action; and

(bb) a copy of the complaint for that action.

(II) Exemption.—

(aa) In general.—Subclause (I) shall not apply with respect to the filing of an action by an attorney general of a State under this subparagraph if the attorney general of the State determines that it is not feasible to provide the notice described in that subclause before the filing of the action.

(bb) Notification.—In an action described in item (aa), the
attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(B) **INTERVENTION.**—

(i) **IN GENERAL.**—On receiving notice under subparagraph (A)(ii), the Commission shall have the right to intervene in the action that is the subject of the notice.

(ii) **EFFECT OF INTERVENTION.**—If the Commission intervenes in an action under clause (i), it shall have the right—

(I) to be heard with respect to any matter that arises in that action; and

(II) to file a petition for appeal.

(C) **LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.**—If the Commission has instituted a civil action for violation of this Act, no State attorney general, or official or agency of a State, may bring an action under subparagraph (A) during the pendency of that action against any defendant named in the com-
plaint of the Commission for any violation of
this Act alleged in the complaint.

(D) RULE OF CONSTRUCTION.—For pur-
poses of bringing a civil action under subpara-
graph (A), nothing in this Act shall be con-
strued to prevent an attorney general of a State
from exercising the powers conferred on the at-
torney general by the laws of that State to—

(i) conduct investigations;

(ii) administer oaths or affirmations;

or

(iii) compel the attendance of wit-
nesses or the production of documentary
and other evidence.

(3) PRIVATE RIGHT OF ACTION.—

(A) IN GENERAL.—Any individual alleging
a violation of a rule promulgated under sub-
section (a) may bring a civil action in any Fed-
eral court of competent jurisdiction.

(B) RELIEF.—In a civil action brought
under subparagraph (A) in which the plaintiff
prevails, the court may award—

(i) compensatory or punitive damages;
(ii) reasonable attorney’s fees, reasonable expert witness fees, and litigation costs; and

(iii) any other relief, including equitable or declaratory relief, that the court determines appropriate.

(C) INJURY IN FACT.—Any individual injured as the foreseeable consequence of a violation of a rule promulgated under subsection (a) constitutes a concrete and particularized injury in fact to that individual.

(c) REPORTS.—

(1) REPORT ON PLAN FOR ENFORCEMENT; BUSINESS AND CONSUMER EDUCATION.—Not later than 60 days after the date on which the Commission issues a final rule under subsection (a)(1), the Commission shall—

(A) submit to Congress a report detailing a plan to enforce such rule (but not including any information on the investigative techniques of the Commission); and

(B) issue business and consumer education about this Act and such rule in order to inform the marketplace about how to comply with such rule.
(2) BIENNIAL REPORT.—Beginning on the date that is 1 year after the date of enactment of this Act, and biennially thereafter, the Commission shall submit to Congress a report that includes, with respect to the previous year, a description of—

(A) any enforcement action taken by the Commission under this Act or a rule promulgated thereunder; and

(B) the outcome of any such action.

(d) SEVERABILITY.—If any provision of this Act is determined to be unenforceable or invalid, the remaining provisions of this Act shall not be affected.

(e) DEFINITIONS.—In this Act:

(1) COMMISSION.—The term “Commission” means the Federal Trade Commission.

(2) DEALER; FIREARM; IMPORTER; MANUFACTURER.—The terms “dealer”, “firearm”, “importer”, and “manufacturer” have the meaning given those terms in section 921 of title 18, United States Code.

(3) FIREARM ACCESSORY.—The term “firearm accessory” means an attachment or device designed or adapted to be inserted into, affixed onto, or used in conjunction with, a firearm which is designed, intended, or functions to alter or enhance the firing
capabilities of the firearm, the lethality of the firearm, or a shooter’s ability to hold, carry, or use the firearm.

(4) **Firearm-related product.**—The term “firearm-related product” means a firearm, ammunition, reloaded ammunition, a firearm precursor part, a firearm component, or a firearm accessory.

(5) **Minor.**—The term “minor” means an individual that is less than 18 years of age.